



General Assembly

Amendment

January Session, 2007

LCO No. 9604

SB0105409604SD0

Offered by:

SEN. COLEMAN, 2nd Dist.

SEN. MCDONALD, 27th Dist.

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SEN. KISSEL, 7th Dist.

To: Subst. Senate Bill No. **1054**

File No. 387

Cal. No. 325

***"AN ACT REVISING THE PROCESS FOR THE TAKING OF REAL
PROPERTY BY MUNICIPALITIES FOR REDEVELOPMENT AND
ECONOMIC DEVELOPMENT."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 8-125 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2007, and*
5 *applicable to redevelopment plans adopted on or after said date*):

6 As used in this chapter:

7 [(a)] (1) "Redevelopment" means improvement by the rehabilitation
8 or demolition of structures, by the construction of new structures,
9 improvements or facilities, by the location or relocation of streets,
10 parks and utilities, by replanning or by two or more of these methods;

11 [(b)] (2) "Redevelopment area" means an area within the state which
12 is deteriorated, deteriorating, substandard or detrimental to the safety,
13 health, morals or welfare of the community. An area may consist
14 partly or wholly of vacant or unimproved land or of land with
15 structures and improvements thereon, and may include structures not
16 in themselves substandard or insanitary which are found to be
17 essential to complete an adequate unit of development, if the
18 redevelopment area is deteriorated, deteriorating, substandard or
19 detrimental. An area may include properties not contiguous to each
20 other. An area may include all or part of the territorial limits of any fire
21 district, sewer district, fire and sewer district, lighting district, village,
22 beach or improvement association or any other district or association,
23 wholly within a town and having the power to make appropriations or
24 to levy taxes, whether or not such entity is chartered by the General
25 Assembly;

26 [(c)] (3) A "redevelopment plan" shall include: [(1)] (A) A
27 description of the redevelopment area and the condition, type and use
28 of the structures therein; [(2)] (B) the location and extent of the land
29 uses proposed for and within the area, such as housing, recreation,
30 business, industry, schools, civic activities, open spaces or other
31 categories of public and private uses; [(3)] (C) the location and extent
32 of streets and other public utilities, facilities and works within the area;
33 [(4)] (D) schedules showing the number of families displaced by the
34 proposed improvement, the method of temporary relocation of such
35 families and the availability of sufficient suitable living
36 accommodations at prices and rentals within the financial reach of
37 such families and located within a reasonable distance of the area from
38 which they are displaced; [(5)] (E) present and proposed zoning
39 regulations in the redevelopment area; [(6)] (F) any other detail
40 including financial aspects of redevelopment which, in the judgment
41 of the redevelopment agency authorized herein, is necessary to give it
42 adequate information;

43 [(d)] (4) "Planning agency" means the existing city or town plan
44 commission or, if such agency does not exist or is not created, the

45 legislative body or agency designated by it;

46 [(e)] (5) "Redeveloper" means any individual, group of individuals
47 or corporation or any municipality or other public agency including
48 any housing authority established pursuant to chapter 128;

49 [(f)] (6) "Real property" means land, subterranean or subsurface
50 rights, structures, any and all easements, air rights and franchises and
51 every estate, right or interest therein; and

52 (7) "Deteriorated" or "deteriorating" with respect to a redevelopment
53 area means an area within which at least twenty per cent of the
54 buildings contain one or more building deficiencies or environmental
55 deficiencies, including, but not limited to: (A) Defects that warrant
56 clearance; (B) conditions from a defect that are not correctable by
57 normal maintenance; (C) extensive minor defects that collectively have
58 a negative effect on the surrounding area; (D) inadequate original
59 construction or subsequent alterations; (E) inadequate or unsafe
60 plumbing, heating or electrical facilities; (F) overcrowding or improper
61 location of structures on land; (G) excessive density of dwelling units;
62 (H) conversion of incompatible types of uses, such as conversion of a
63 structure located near family dwelling units to rooming houses; (I)
64 obsolete building types, such as large residences or other buildings
65 which because of lack of use or maintenance have a blighting
66 influence; (J) detrimental land uses or conditions, such as incompatible
67 uses, structures in mixed use, or adverse influences from noise, smoke
68 or fumes; (K) unsafe, congested, poorly designed, or otherwise
69 deficient streets; (L) inadequate public utilities or community facilities
70 that contribute to unsatisfactory living conditions or economic decline,
71 or (M) other equally significant building deficiencies or environmental
72 deficiencies.

73 Sec. 2. Section 8-132 of the general statutes is repealed and the
74 following is substituted in lieu thereof (*Effective October 1, 2007, and*
75 *applicable to property acquired on or after said date*):

76 (a) Any person claiming to be aggrieved by the statement of

77 compensation filed by the redevelopment agency may, at any time
78 within six months after the [same] statement of compensation has been
79 filed, apply to the superior court for the judicial district in which such
80 property is situated for a review of such statement of compensation so
81 far as [the same] it affects such applicant. The court, after causing
82 notice of the pendency of such application to be given to the
83 redevelopment agency, may appoint a judge trial referee to make a
84 review of the statement of compensation. Notwithstanding the
85 provisions of this subsection, upon motion of both parties or their
86 attorneys, the court shall refer the application to the Ombudsman for
87 Property Rights for a hearing pursuant to subdivision (2) of subsection
88 (b) of this section.

89 (b) (1) If the court appoints a judge trial referee, the judge trial
90 referee, after giving at least ten days' notice to the parties interested of
91 the time and place of hearing, shall hear the applicant and the
92 redevelopment agency, shall view the property and take such
93 testimony as the judge trial referee deems material and shall thereupon
94 revise such statement of compensation in such manner as the judge
95 trial referee deems proper and [forthwith] promptly report to the
96 court. Such report shall contain a detailed statement of findings by the
97 judge trial referee [.] sufficient to enable the court to determine the
98 considerations upon which the judge trial referee's conclusions are
99 based. The report of the judge trial referee shall take into account any
100 evidence relevant to the fair market value of the property, including
101 evidence of environmental condition and required environmental
102 remediation. The judge trial referee shall make a separate finding for
103 remediation costs and the property owner shall be entitled to a set-off
104 of such costs in any pending or subsequent action to recover
105 remediation costs for the property. The court shall review the report,
106 and may reject [it] the report for any irregular or improper conduct in
107 the performance of the duties of the judge trial referee. If the court
108 rejects the report, [is rejected,] the court may appoint another judge
109 trial referee to make such review and report or may refer the
110 application to the Ombudsman for Property Rights upon motion as

111 provided in subsection (a) of this section. If the court accepts the
112 report, [is accepted, its] the statement of compensation in the report
113 shall be conclusive upon such owner and the redevelopment agency.

114 (2) If the court refers the application to the Ombudsman for
115 Property Rights pursuant to subsection (a) of this section, the
116 ombudsman, after giving at least ten days' notice to the parties
117 interested of the time and place of hearing, shall hear the applicant and
118 the redevelopment agency, shall view the property and take such
119 testimony as the ombudsman deems material and shall thereupon
120 revise such statement of compensation in such manner as the
121 ombudsman deems proper and promptly report to the court. Such
122 report shall contain a detailed statement of findings by the
123 ombudsman sufficient to enable the court to determine the
124 considerations upon which the ombudsman's conclusions are based.
125 The report of the ombudsman shall take into account any evidence
126 relevant to the fair market value of the property, including evidence of
127 environmental condition and required environmental remediation.
128 The ombudsman shall make a separate finding for remediation costs
129 and the property owner shall be entitled to a set-off of such costs in
130 any pending or subsequent action to recover remediation costs for the
131 property. The report submitted by the ombudsman shall constitute a
132 part of the proceeding, and the statement of compensation in the
133 report shall be conclusive upon such owner and the redevelopment
134 agency.

135 (c) If the court does not appoint a judge trial referee or refer the
136 application to the Ombudsman for Property Rights, the court, after
137 giving at least ten days' notice to the parties interested of the time and
138 place of hearing, shall hear the applicant and the redevelopment
139 agency and take such testimony as [it] the court deems material, may
140 view the subject property, and shall make a finding regarding the
141 statement of compensation. The findings of the court shall take into
142 account any evidence relevant to the fair market value of the property,
143 including evidence of environmental condition and required
144 environmental remediation. The court shall make a separate finding

145 for remediation costs and the property owner shall be entitled to a set-
146 off of such costs in any pending or subsequent action to recover
147 remediation costs for the property. The findings of the court shall be
148 conclusive upon such owner and the redevelopment agency.

149 (d) If no appeal to the Appellate Court is filed within the time
150 allowed by law, or if an appeal is filed and the proceedings have
151 terminated in a final judgment finding the amount due the property
152 owner, the clerk shall send a certified copy of the statement of
153 compensation and of the judgment to the redevelopment agency,
154 which shall, upon receipt thereof, pay such property owner the
155 amount due as compensation. The pendency of any such application
156 for review shall not prevent or delay any action that is proposed with
157 regard to such property by the project area redevelopment plan.

158 Sec. 3. (NEW) (*Effective from passage*) (a) As used in this section,
159 "good will" means the benefits that accrue to a business that are unique
160 to its location.

161 (b) The Ombudsman for Property Rights shall study the feasibility
162 of calculating relocation assistance for businesses displaced by eminent
163 domain or condemnation, pursuant to chapter 132 or 588/ of the
164 general statutes, on the basis of any loss or gain in good will associated
165 with the displacement of the business. The ombudsman shall examine
166 (1) the possible methods for calculating such loss or gain in good will,
167 (2) the advantages and disadvantages of basing such relocation
168 assistance on any loss or gain in good will associated with the
169 relocation of the business, (3) the experience of other states in basing
170 relocation assistance on any loss or gain in good will associated with
171 the relocation of the business, and (4) possible strategies for
172 municipalities to plan to achieve the fiscal capacity necessary to
173 compensate property owners for lost good will associated with the
174 displacement of a business.

175 (c) Not later than January 1, 2008, the ombudsman shall submit a
176 report, in accordance with section 11-4a of the general statutes, on the

177 ombudsman's findings and recommendations to the joint standing
178 committees of the General Assembly having cognizance of matters
179 relating to the judiciary and planning and development. If the
180 ombudsman recommends that such good will relocation assistance be
181 implemented in this state, the ombudsman shall recommend a method
182 for implementing such recommendation with respect to chapters 132
183 and 588l of the general statutes.

184 Sec. 4. Subsection (b) of section 8-273a of the general statutes, as
185 amended by section 18 of substitute senate bill 167 of the current
186 session, is repealed and the following is substitute in lieu thereof
187 (*Effective from passage and applicable to property acquired on and after said*
188 *date*):

189 (a) Notwithstanding any other provisions of the general statutes to
190 the contrary, whenever the Commissioner of Transportation
191 undertakes the acquisition of real property on a state or federally-
192 funded project which results in any person being displaced from his
193 home, business, or farm, the Commissioner of Transportation is hereby
194 authorized to provide relocation assistance and to make relocation
195 payments to such displaced persons and to do such other acts and
196 follow procedures and practices as may be necessary to comply with
197 or to provide the same relocation assistance and relocation payments
198 as provided under the federal Uniform Relocation Assistance and Real
199 Property Acquisition Policies Act of 1970, 42 USC 4601 et seq. and any
200 subsequent amendments thereto and regulations promulgated
201 thereunder.

202 (b) (1) Whenever the Commissioner of Transportation acquires an
203 outdoor advertising structure, the amount of compensation to the
204 owner of the outdoor advertising structure shall include payment for
205 relocation costs incurred by such owner.

206 (2) If the owner (A) is able to obtain, within one year of acquisition
207 by the commissioner, all state and local permits necessary for
208 relocation of the outdoor advertising structure to another site in the

209 Standard Metropolitan Statistical Area, as designated in the federal
210 census, in which the outdoor advertising structure is located, and (B)
211 such site was not previously offered for sale or lease to the owner of
212 the outdoor advertising structure, then the commissioner shall pay to
213 the owner the replacement cost of the outdoor advertising structure,
214 plus the fair market value of such outdoor advertising structure less
215 the fair market value of the new site. The fair market value of such site
216 shall be determined by the income capitalization method.

217 (3) If the owner (A) is unable to obtain, within one year of
218 acquisition by the commissioner, all state and local permits necessary
219 for relocation to another site in the same Standard Metropolitan
220 Statistical Area, as designated in the federal census in which the
221 outdoor advertising structure is located, or (B) such site was
222 previously offered for sale or lease to the owner of the outdoor
223 advertising structure, the commissioner shall pay the replacement cost
224 plus the fair market value of the outdoor advertising structure the
225 commissioner has acquired. The owner shall provide to the
226 commissioner written documentation sufficient to establish that all
227 state and local necessary permits cannot be obtained for relocation
228 within one year of acquisition or that the only available relocation sites
229 have been previously offered for sale or lease to the owner.

230 (4) Any person aggrieved by determination of the amount of
231 compensation paid under this subsection may appeal to the State
232 Properties Review Board.

233 (5) The provisions of this subsection shall not be construed to
234 authorize any action that is found to violate the provisions of 23 USC
235 131 or 23 CFR 750 or the terms of an agreement entered into by the
236 Commissioner of Transportation with the Secretary of Commerce
237 pursuant to subsection (b) of section 13a-123."

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2007, and applicable to redevelopment plans adopted on or after said date</i>	8-125
Sec. 2	<i>October 1, 2007, and applicable to property acquired on or after said date</i>	8-132
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage and applicable to property acquired on and after said date</i>	8-273a(b)